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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/473,765	12/29/1999	MARKO PARIKKA	297-009122-U	1440

7590

09/05/2003

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EXAMINER

SEMBER, THOMAS M

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/473,765

Applicant(s)

PARIKKA ET AL.

Examiner

Thomas M Sember

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 U.S.C. § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

I. Claims 1-10, 12 and 15-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiono et al. Regarding claims 23-24, Shiono et al discloses a light pipe 12 comprising: a first surface, said surface including two dimensional patterns 2 having diffractive properties for coupling light out from the light pipe to provide backlighting of a flat panel display by means of at least one light source, said patterns comprising uniform, mutually different areas distributed on said first surface. **The limitation of "for coupling light out from the light pipe to provide backlighting of a flat-panel display is merely intended use and not given any patentable weight.** Regarding claim 28, as broadly claimed the light of Shiono et al is close to the light guide.

### ***Claim Rejections - 35 U.S.C. § 102***

II. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

III. Claims 1-10, 12 and 15-29 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 61-35585 (figure 2). JP 61-35585 (figure 2) discloses a light pipe 1 comprising: a first surface, said surface including two dimensional patterns 7 having diffractive properties for coupling light out from the light pipe to provide backlighting of a flat panel display by means of at least one light source, said patterns comprising uniform, mutually different areas distributed on said first surface. Regarding claim 28, as broadly claimed the light of Shiono et al is close to the light guide. The light emitted from the display is uniform with a distance from the light pipe. **The limitation of "for coupling light out from the light pipe to provide backlighting of a flat-panel display is merely intended use and not given any patentable weight.**

***Claim Rejections - 35 U.S.C. § 103***

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

V. Claims 11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over (Shiono et al or JP 61-35585). (Shiono et al or JP 61-35585) discloses the claimed invention except for the specific fill ratios and period lengths of the diffractive surfaces. It would have been an obvious engineering design choice to modify the diffractive surfaces of (Shiono et al or JP 61-35585) to meet applicant's claimed parameters since the applicant fails to disclose any advantage or any unexpected results obtained in using the specific fill ratios and period lengths for the diffraction

projections and it appears the projections of (Shiono et al or JP 61-35585) would perform equally well at diffracting light.

### ***Response to Arguments***

a. Regarding the Shiono et al reference, applicant's arguments filed on 06/19/03 have been fully considered but they are not persuasive. The applicant's arguments in view of Shinio are not found persuasive because even though Shinio doesn't specifically teach a backlighting device, the backlighting device is not positively recited. The limitation of "for coupling light out from the light pipe to provide backlighting of a flat-panel display is merely intended use and not given any patentable weight. **A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See In re Casey, 152 USPQ 235 (CCPA 1967) and In re Otto, 136 USPQ 458, 459 (CCPA 1963).**

Furthermore even if backlighting a flat display was positively claimed, as broadly claimed the display of Shiono could be construed as a backlight (see figure 6). Thus as shown in figure 2, backlighting is exactly what Shiono et al is doing. This is even supported by applicant's arguments filed on 2/12/03 at column 6, lines 6-12

where applicant states "backlighting means light emerging from the light pipe towards the back side of the display, through the display and further towards the eyes of someone looking at the display.

Finally, the applicant never addresses the rejections under the JP-35585. As broadly claimed JP-35585 teaches applicant's claimed invention.

### ***Conclusion***

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

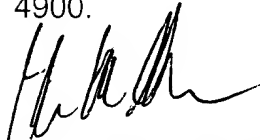
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is (703) 308-1938. The examiner can normally be reached on Monday - Thursday from 8:00 AM - 5:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea, can be reached at (703) 305-4939. The fax phone number for this group is (703) 308-7724.

Any inquiries of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4900.

A handwritten signature in black ink, appearing to read 'T. M. Sember', with a stylized flourish at the end.

Thomas M. Sember

Primary Examiner  
8/29/03